

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

SIX STAR HOLDINGS, LLC and
FEROL, LLC

Plaintiffs,

v.

Case No. 10-C-893

CITY OF MILWAUKEE,

Defendant.

**CITY RESPONSE TO PLAINTIFFS' MOTION FOR
AN AWARD OF NOMINAL DAMAGES BY THE COURT
TO PLAINTIFF SIX STAR HOLDINGS, LLC**

The City of Milwaukee respectfully requests the district court to deny the plaintiff's motion for an award of nominal damages by the court to plaintiff Six Star Holdings, LLC (Document 109). Plaintiff Six Star Holdings, LLC has abandoned its claim for alleged damages and neither plaintiff Six Star Holdings, LLC or plaintiff Ferol, LLC may seek damages in connection with the court's March 13, 2013 Decision and Order.

In plaintiff's response number 7 to the defendant's first set of interrogatories, plaintiffs stated "*Plaintiffs will not attempt to prove any damages in connection with the March 13, 2013 decision and order. The plaintiffs will only be proving damages in connection with the August 28, 2013 decision and order.*" See, Response 7, Plaintiffs' Response to Defendant's First Set of Interrogatories, March 7, 2014 (attached hereto, emphasis added).

Further, in plaintiffs' corrected response to Defendants' First Set of Requests to Admit dated March 24, 2014, plaintiffs *admitted* that "*Plaintiff Six Star Holdings, LLC will not seek any damages from the City of Milwaukee based upon the district court's previous decisions and order relative to its previous theater license applications.*" (Also attached hereto, emphasis added).

The court should deny the plaintiffs' motion for nominal damages award based upon sworn representations that they made to the City of Milwaukee in March, 2014. Plaintiffs should not be permitted by the court to mislead the defendant City of Milwaukee during the pendency of this litigation prior to the close of discovery in this case. Frankly, this plaintiff's motion two weeks before jury trial is totally inappropriate given their prior admission and interrogatory response.

Because plaintiff Six Star Holdings, LLC has *twice* denied that it will seek *any* damages as a result of its 2011 theater license application for the 730 North Old World Third Street location or this court's opinion of March 18, 2013, this motion in limine should be denied and the court should consider ordering plaintiffs to pay for the costs of this response.

Dated at Milwaukee, Wisconsin, this 6th day of February, 2015.

GRANT F. LANGLEY, City Attorney

s/ADAM B. STEPHENS

State Bar No. 1033108

Assistant City Attorney

Attorney for Defendant

City of Milwaukee

ADDRESS:

800 City Hall

200 East Wells Street

Milwaukee, WI 53202

Telephone: (414) 286-2601

Fax: (414) 286-8550

asteph@milwaukee.gov

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